

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

EXETER HOLDING, LTD.

Debtor.

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OFFICIAL COMMITTEE OF UNSECURED CREDITORS,

Plaintiff,

v.

Case No.: 13-cv-05475-JS-AKT

LINDA HALTMAN, *et al.*,

Defendants.

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AFFIDAVIT OF BRIAN T. FOX

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NEW JERSEY

STATE OF ~~NEW YORK~~ )

UNION ) ss:

COUNTY OF ~~NEW YORK~~ )

Brian T. Fox, being first duly sworn on oath, deposes and states as follows:

1. I am a principal in the accounting and consulting firm of PricewaterhouseCoopers LLP ("PwC"). I am part of PwC's Forensic Services practice and am resident in PwC's New York office. I provide computer forensics, e-discovery and cybercrime-related services to clients and their counsel. I am an EnCase Certified Examiner (EnCE). My curriculum vitae is attached to this affidavit as Exhibit A.

2. Under my direction and supervision, PwC conducted the forensic analysis described in this affidavit. I verify that the facts set forth herein are true to the best of my personal knowledge and belief.
3. PwC was engaged by Gary Herbst, solely as the Plan Administrator for the Estate of Exeter Holding, Ltd., and his counsel, to perform specific analytical activities related to one particular computer hard drive. PwC's services were performed in accordance with PwC's engagement letters dated December 16, 2013 and February 1, 2015 ("PwC ELs") and are subject to the terms and conditions included therein. PwC's services were performed in accordance with the Standards for Consulting Services established by the American Institute of Certified Public Accountants.
4. PwC's work was limited to the procedures and analyses described herein and was based only on the information made available through February 1, 2015. Accordingly, changes in circumstances coming to my attention after this date could affect the findings outlined in this affidavit. This affidavit has been created based on the unique facts and circumstances of the subject matter of PwC's engagement. This affidavit has been prepared solely in connection with the above-captioned matter (Case No. 13-cv-05475-JS-AKT) and is not intended for use or reliance in any other context.
5. On December 23, 2013, PwC received a hard drive from Alston & Bird LLP ("Alston & Bird") that was represented to PwC as consisting of a forensic image created using Guidance Software's EnCase ("subject image") of a computer hard drive that was used by Linda Haltman ("Defendant Haltman"). Alston & Bird indicated that the original forensic image was taken in October 2012 by a third party and obtained by Alston & Bird in or around November 2013. In accordance with the terms of the PwC ELs, PwC performed the two analyses on the subject image described herein. The first analysis (hereinafter "Electronic File Deletion Analysis") explored the history of file deletion activity on the subject image; and the second analysis (hereinafter "QuickBooks

Analysis”) identified files associated with the Intuit QuickBooks application that were deleted from the subject image.

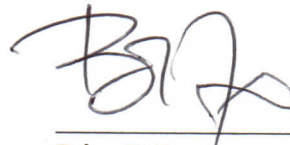
Electronic File Deletion Analysis

6. As previously stated, the Electronic File Deletion Analysis explored the history of file deletion activity on the subject image. The following describes the procedures performed as part of PwC’s Electronic File Deletion Analysis of the subject image:
  - a. Performed the Recover Folders action on the subject image, using Guidance Software’s EnCase version 6.19 (“EnCase 6.19”). Recover Folders is a function within EnCase 6.19 that locates deleted directory entries and restores them, enabling the software to locate many more deleted files than would otherwise be visible;
  - b. Searched for files on the subject image using EnCase 6.19’s search features carrying the “Is Deleted” attribute, indicating that the computer files are deleted files; and
  - c. Exported information about the files identified in b. above to Microsoft Excel, including the date Last Accessed. The Last Accessed date is a date retained by Microsoft Windows that, for deleted files, are generally understood by computer forensics professionals as corresponding to the date of deletion. A summary was then created to illustrate the number of files deleted per month using the Last Accessed date.
7. PwC’s analysis found that 64,084 files and folders were deleted between January 7, 2004 and October 10, 2012. These 64,084 files were collectively 17.03 GB in size. Of the 64,084 files, 46,623 files were deleted between January 1, 2011 and October 10, 2012. Of the 46,623 files, 21,302 files were either partially or fully overwritten, rendering them unrecoverable through ordinary forensic means.
8. PwC’s analysis showed that an average of 2,119 files were deleted per month from January 1, 2011 to October 10, 2012. There were two months in which the number of deleted files was notably higher than this average: September 2011 (20,680 deleted files) and November 2011 (10,703

deleted files). Of the 10,703 files deleted in November 2011, 8,961 were deleted on November 21, 2011. A graph depicting the number of deleted files between January 1, 2011 and October 10, 2012 is attached hereto as Exhibit B.


QuickBooks Analysis

9. PwC performed an analysis of the subject image to identify files related to the Intuit QuickBooks accounting software ("QuickBooks"). To identify QuickBooks-related files, we researched the website of the software provider, Intuit, and noted 12 file extensions related to QuickBooks, which are DES, IIF, ND, QBA, QBA.TLG, QBB, QBM, QBR, QBW, QBW.TLG, QBX, and QBY. Further, we researched the file extensions on the subject image, specifically researching for files contained in the D:\Documents and Settings\All Users\Application Data\Intuit folder and its subfolders, and noted four additional extensions beyond the 12 listed on the Intuit site identifying files related to QuickBooks. These four extensions are QBC, QCF, QFN, and QuickBaseClient. Subsequently, further analysis was performed to identify deleted files with any of these 16 file extensions. PwC's analysis found that 92 QuickBooks-related files were deleted. Of those 92 files, 27 were deleted on November 21, 2011. A graph depicting the deletion activity is attached hereto as Exhibit C.



Brian T. Fox

Sworn to before me this 2  
day of February, 2015.

  
Notary Public

Frederick N Mastromarino  
Notary Public  
New Jersey  
My Commission Expires 7-1-19  
No. 2447646